

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARYL A. ASHLEY,

02-CV-0538E(F)

Plaintiff,

-vs-

JO ANNE B. BARNHART,
Commissioner of Social Security,

ORDER

Defendant.

The Honorable Leslie G. Foschio, a Magistrate Judge in this judicial district, having conducted all proceedings necessary to determine the merits of factual and legal issues presented in this matter pursuant to this Court's referral under 28 U.S.C. §636(b)(1)(B), and having on January 6, 2006 filed his Report and Recommendation concerning such, and no objection thereto having been made, and the substance and rationale of said Report and Recommendation having been considered by this Court, it is hereby

ORDERED that said Report and Recommendation is fully confirmed, that defendant's motion for judgment on the pleadings is granted and plaintiff's motion for judgment on the pleadings is denied.

DATED: Buffalo, N.Y.
February 6, 2006

/s/ John T. Elfvin
JOHN T. ELFVIN
S.U.S.D.J.